

REMARKS

Reconsideration of the subject application as amended herein is respectfully requested.

The non-elected claims have been canceled.

Claim 3 has been cancelled and its limitations have been incorporated into claim

1. New claims 47 and 48 are presented and describe the invention as including a suede-like non-woven composite material as described in the specification at page 5, line 10.

The Examiner has rejected the various claims as being obvious in view of Oakley, Ogden and Watt. References the Applicants respectfully traverse these rejections.

Oakley discloses a non-woven fabric layer, a non-slip material and an ingredient layer . The non-woven material is conventional, with its fibers being oriented substantially horizontally. The present invention, as defined in claims 1 and 47, pertains to a unique shoe inserted using a non-woven fabric layer with a plurality of vertical fibers. As illustrated by Table 1 on page 14 of the specification, this unique layer has significantly different and better properties the standard non-woven fabrics, such as used in Oakley. No other standard non-woven fabrics, including the ones disclosed by Oakley come even close.

Ogden discloses an apertured film which, due to the addition of vinyl acetate, has an increased coefficient of friction in the range of 0.45 to 0.50. Combining these two references leads a person skilled in the art to use a standard non-woven fabric with horizontal fibers and a coefficient of friction in the range of 0.45 to 0.50. There is

nothing in these references that suggests using a fabric having a coefficient of friction in the range of 0.62-0.82, as recited in claim 42 and supported by the data presented in the specification.

Importantly, there is nothing in these references to suggest the use of a fabric with vertical fibers. This type of fabric is particularly advantageous because it has better softness and cushioning characteristics than standard non-woven fabrics with only horizontal fibers even when vinyl acetate is added thereto.

The Applicants take issue and traverse the statement on Page 3, last full paragraph of the office action regarding the use of cohesive coatings. It is well known that the term 'cohesive' refers to a high coefficient of friction material that adheres to itself. Oakley discloses an adhesive that is a pressure sensitive material which may transfer from the insert to the shoe and is therefore 'tacky.'

Finally, the Applicants traverse the rejection on page 4, last full paragraph. Watt discloses a textured suede fabric with vertical fibers. Applicants admit that they have not invented a suede-like non-woven material. Such materials are well known, and are used principally for clothing or upholstery. However, as far the Applicants are aware, they are the first to use such a material as a shoe insert. As the Examiner is well aware, there are thousands and thousands of materials available, both woven and non-woven, that could be used as shoe inserts. Therefore the Examiner has the burden of showing that what in the prior art (and which prior art) suggests to a person skilled in the art of shoe inserts to use a suede-like material. Absent any clear evidence of such a teaching, the Examiner has failed to make out a *prima facie* case of obviousness. A mere statement that "It is extremely (?) well known and conventional to use suede-like

materials for top layers of inserts" is insufficient as a matter of law and does not provide a sufficient basis for an obviousness rejection.

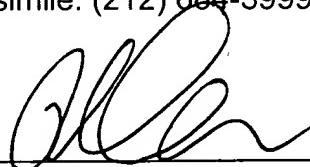
To summarize, the Applicants have invented a new and different shoe insert having novel structures and characteristics that are not taught or suggested by the prior art. Accordingly, it is respectfully submitted that the subject application is patentably distinguishable over the prior art of record and should be allowed.

The Commissioner is authorized to use Deposit Account No. 07-1730 for any fees that may be required including fees for extensions. This is a continuing request.

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Respectfully submitted,

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CLAIMS WITH CORRECTIONS

Amend claim 1 as follows:

1 (Amended). A shoe insert comprising:

a fabric layer that contains surface fibers oriented in a vertical direction and
having an inside portion and an outside portion and being made from a non-woven
material with a co[-]efficient of friction along the inside portion between about 0.52 and
0.82; and

a non-slip surface disposed along said outside portion of said fabric layer.

Cancel claims 3, 5-17, 24-28 and insert the following new claim:

4 (Amended). The shoe insert of Claim 1, wherein said fabric layer is treated
with a surfactant for wettability.

31 (Amended). The shoe insert of Claim 30, wherein said internal ingredient is
selected from the group consisting of an [odor-neutralizing particulate] odor-neutralizer
and a masking fragrance.